

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Danny Murphy
Serial No.: 09/638,089
Filed: August 11, 2000
For: Demographic Information Database Processor
Group Art Unit: 3626
Examiner: Vanel Frenel
Attorney's Docket No.: N6447
Customer No.: 23456

STATUS REQUEST
AND
COPIES OF PREVIOUSLY FILED RESPONSE AND STATUS REQUESTS

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant filed this application on August 10, 2000. The Examiner issued a final rejection in an Office Action mailed February 10, 2005. On August 10, 2005, Applicant filed a Response to Office Action mailed February 10, 2005. On January 18, 2006 Applicant, at the Examiner's request, faxed a copy of Applicant's August 10, 2005 response to the requested facsimile number. On February 1, 2006, Attorney Brantley spoke with the Examiner and confirmed that the Examiner received Applicant's Response and would conduct another prior art search subsequent to review of Applicant's Response.

On December 6, 2006, Attorney Bayless spoke with the Examiner regarding the absence of any action by the USPTO in this application. The Examiner requested an additional transmission of the Status request and the Response.

Applicant has received no further communications from the Patent and Trademark Office. Accordingly, Applicant respectfully requests a status report on the above-referenced matter.

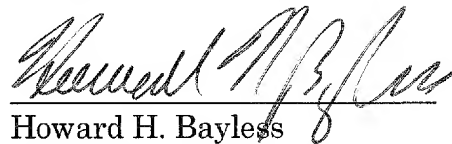
To aid the Examiner, Applicant encloses copies of:

- (a) Status Request filed May 23, 2006, with USPTO confirmation
- (b) Attorney Brantley's facsimile to the Examiner retransmitting a copy of the Response to the February 10, 2005 office action
- (c) A copy of the Response to the February 10, 2005 office action, filed by Attorney Brantley and including a telephone interview summary noting Examiner's agreement to withdraw the finality of the rejections.

If the Examiner has any questions regarding this status request, or feels that a telephone conference will facilitate the prosecution of this application, Attorney Brantley (preferred) or the undersigned attorney can be contacted at (256) 535-4400.

The Commissioner is authorized to charge any deficiency or credit any overpayment associated with the filing of this Response to Deposit Account 23-0035.

Respectfully submitted,



Howard H. Bayless
Registration No. 51,245

WADDEY & PATTERSON
A Professional Corporation
Customer No. 23456
ATTORNEY FOR APPLICANT

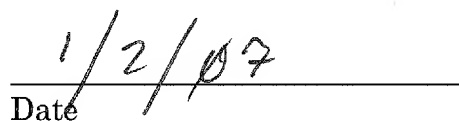
Howard H. Bayless
Waddey & Patterson, P.C.
Roundabout Plaza
1600 Division Street, Suite 500
Nashville, TN 37203
(615) 242-2400

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Status Request for application serial number 09/638,089, which was filed on August 11, 2000 is being transmitted to the United States Patent and Trademark Office, Fax No. by means of the EFS electronic filing system on January 2, 2007.

Howard H. Bayless


Signature


Date

Auto-Reply Facsimile Transmission



TO: Fax Sender at 2565354402

Fax Information

Date Received: 5/23/2006 5:39:29 PM [Eastern Daylight Time]

Total Pages: 4 (including cover page)

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| | | | |
|---|--|--|--|
| May 23, 2006 4:36 PM Waddey&Patterson | | Vo. 0485 | |
| <p>Registered Patent Attorneys</p> <p>Mark J. Patterson I.C. Waddey, Jr. Edward D. Lenzquist, Jr. Lucian Wayne Beavers James R. Cartiglia Emily A. Shouse Larry W. Brantley Marlene B. Alford Phillip E. Walker Howard H. Bayless Jason L. Hordahl</p> <p><small>* Licensed in a State other than Tennessee</small></p> | | <p>Waddey & Patterson, P.C.</p> <p><small>Patents • Trademarks • Copyrights</small></p> | |
| FAX COVER PAGE | | | |
| TO: | Examiner Vanel Frenel | FROM: | Howard H. Bayless <small>hbb@iplawgroup.com</small> |
| FAX NO.: | 571-273-6760 | PAGES: | 4 (including cover page) |
| DATE: | May 23, 2006 | | |
| TIME: | 4:35 PM (CST) | | |
| SUBJECT: | STATUS REQUEST | | |
| APPLICANT: | Danny Murphy | | |
| SERIAL NO.: | 09/638,089 | | |
| FILED: | August 11, 2000 | | |
| FOR: | Demographic Information Database Processor | | |
| GROUP ART UNIT: | 3626 | | |
| CUSTOMER NO.: | 23456 | | |
| OUR DOCKET NO.: | N6447 | | |
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| <p>Bank of America Plaza • 414 Union Street • Suite 2020 • Nashville, TN 37219 615.242.2400 • Fax: 615.242.2221 • www.iplawgroup.com</p> | | | |
| <p>PAGE 1/4 RCVD AT 5/23/2006 5:39:29 PM [Eastern Daylight Time] * SVR:USPTO-EF:RF-221 * D:06 2738300 * CSID:2565354402 * DURATION (mm:ss):01:08</p> | | | |

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PAGE 1/4 * RCVD AT 5/23/2006 5:39:29 PM [Eastern Daylight Time] * SVR:USPTO-EFAXRF-221 * DNS:2738300 * CSID:2565354402 * DURATION (mm-ss):01-08

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APPLICANT: Danny Murphy
SERIAL NO.: 09/638,089
FILED: August 11, 2000
FOR: Demographic Information Database Processor
GROUP ART UNIT: 3626
CUSTOMER NO.: 23456
OUR DOCKET NO.: N6447

TO: Examiner Vanel Frenel
FROM: Howard H. Bayless
FAX NO.: 571-273-0769
DATE: May 23, 2006
TIME: 4:35 PM (CST)
PAGES: 4 (including cover page)

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Registered Patent Attorneys
Mark J. Patterson
I.C. Waddey, Jr.
Edward D. Lanquist, Jr.
Lucian Wayne Beavers
James R. Cardillo
Emily A. Shouse
Larry W. Brantley
Martha B. Alford
Phillip E. Walker
Howard H. Bayless
Jason L. Hunkohr
Licensed in a State other than Tennessee

Offices also at:
AmSouth Center
200 Clinton Avenue
Suite 302
Huntsville, AL 35804
256.535.4400
Fax: 256.535.4402

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No. 0485 P. 2

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For: Dermographic Information Database Processor
Group Art Unit: 3626
Examiner: Vanel Rreneal
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STATUS REQUEST

Via Facsimile to 571-273-8300

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Dear Sir:

Applicant filed this application on August 10, 2000. The Examiner issued a

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Applicant filed a Response to Office Action mailed February 10, 2005. On January

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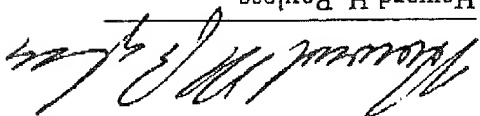
Applicant has received no further communications from the Patent and

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Howard H. Bayless
Waddey & Patterson, P.C.
Roundabout Plaza
1600 Division Street, Suite 500
Nashville, TN 37203
(615) 242-2400

Howard H. Bayless
Registration No. 51,245
WADDEY & PATTERSON
A Professional Corporation
Customer No. 23456
ATTORNEY FOR APPLICANT



Respectfully submitted,

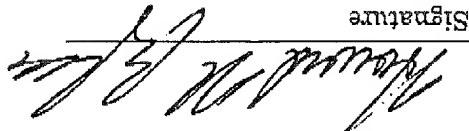
If the Examiner has any questions regarding this status request, or feels that a telephone conference will facilitate the prosecution of this application, the undersigned attorney can be contacted at (256) 535-4400.

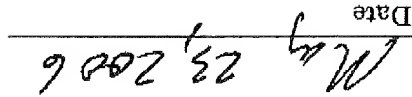
The Commissioner is authorized to charge any deficiency or credit any overpayment associated with the filing of this Response to Deposit Account 23-0035.

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Status Request for application serial number 09/638,089, which was filed on August 11, 2000 is being facsimile transmitted to the United States Patent and Trademark Office, facsimile number 571-273-8300, on the date indicated below.

Howard H. Bayless


Signature


Date

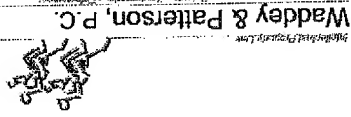
1) Waddley & Patterson
2) Huntsville, Alabama

Date/Time: Jan. 18, 2006 8:56AM

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FAX COVER PAGE

TO: Examiner Vanel Frenel FROM: Larry W. Brantley
lbrantley@comcast.net

FAX NO.: 671-273-6769
DATE: January 18, 2006
TIME: 8:42 AM (CST)
PAGES: 9 (including cover page)

URGENT Message:

Examiner Frenel:
Per your request, this facsimile contains a copy of the Response to the February 10, 2005 office action, which we previously submitted to you via facsimile on August 10, 2005. Additionally, please find a copy of our facsimile receipt showing that the original 7 page response and a 1 page cover sheet (total 8 pages), were received August 10, 2005. Please call our office immediately at 256-536-4400 if you have any questions or concerns or wish to discuss this fax or response.

SUBJECT: Response and Amendment to 02/10/2005 Final Office Action
APPLICANT: Danny Murphy
SERIAL NO.: 09638,069
FILED: August 11, 2000
FOH: Demographic Information Database Processor
GROUP ART UNIT: 3028
CUSTOMER NO.: 23456
OUR DOCKET NO.: N6447

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Address: Carter 200 Canton Avenue Suite 3022 Huntsville, AL 35894
Phone: 256-535-4400 Fax: 256-535-4402

Registered Patent Attorneys
Mark J. Patterson
L.C. Waddley, Jr.
Edward D. Langford, Jr.
Ludon Wayne Edwards
James R. Carls
Emily A. Shouse
Larry W. Brantley
Martin E. Alford
Philip E. Walker
Howard H. Bayless
Jason L. Horvath
* Located in a state other than Tennessee

Office also at:
Roundabout Plaza
1000 Union Street
Suite 500
Nashville, TN 37203
615-242-2400
Fax: 615-242-2221

Registered Patent Attorneys
 Mark J. Patterson
 I.C. Waddey, Jr.
 Edward D. Lanquist, Jr.
 Lucian Wayne Beavers
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 Martha B. Allard
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 Jason L. Hornkohl
 *Licensed in a State other than Tennessee

Offices also at:
 Roundabout Plaza
 1600 Division Street
 Suite 500
 Nashville, TN 37203
 615-242-2400
 Fax: 615-242-2221

Intellectual Property Law

Patents * Trademarks * Enforcement

Waddey & Patterson, P.C.

FAX COVER PAGE

TO: Examiner Vanel Frenel FROM: Larry W. Brantley
 lb@iplawgroup.com
 FAX NO.: 571-273-6769
 DATE: January 18, 2006
 TIME: 8:42 AM (CST)
 PAGES: 9 (including cover page)

URGENT Message:

Examiner Frenel:
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SUBJECT: Response and Amendment to 02/10/2005 Final Office Action
 APPLICANT: Danny Murphy
 SERIAL NO.: 09/638,089
 FILED: August 11, 2000
 FOR: Demographic Information Database Processor
 GROUP ART UNIT: 3626
 CUSTOMER NO.: 23456
 OUR DOCKET NO. N6447

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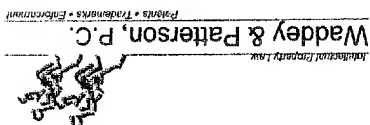
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256 535 4402
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Fax Call Report

| Job | Date | Time | Type | Identification | Duration | Pages | Result |
|-----|-----------|-----------|------|----------------|----------|-------|--------|
| 330 | 8/10/2005 | 6:25:58PM | Send | 15712736769 | 3:16 | 8 | OK |



FAX COVER PAGE

TO: Examiner Vanel Frenel FROM: Larry W. Brantley

FAX NO.: 571-273-6769 PAGES: 8 (including cover page)

DATE: August 10, 2005

TIME: 1:20 PM / AM (CST)

SUBJECT: Response and Amendment to 02/10/2005 Final Office Action

APPLICANT: Danny Murphy

SERIAL NO.: 09/638,089

FILED: August 11, 2005

FOR: Demographic Information Database Processor

GROUP ART UNIT: 3626

CUSTOMER NO.: 23456

OUR DOCKET NO.: N6447

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Registered Patent Attorneys
Mark J. Patterson
L.C. Waddey, Jr.
Edward D. Langust, Jr.
Lucian Wayne Beavers
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Howard H. Bayless
Jason L. Hornschi
Transmitted in a state other than Tennessee

Offices also at:
Andoulin Center
200 Clinton Avenue
Suite 302
Huntsville, AL 35804
256.535.4400
Fax: 256.535.4402

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Danny Murphy
Serial No.: 09/638,089
Filed: August 11, 2000
For: Demographic Information Database Processor
Group Art Unit: 3626
Examiner: Vanel Frenel
Attorney's Docket No.: N6447
Customer No.: 23456

RESPONSE TO OFFICE ACTION

VIA FACSIMILE NO. (571) 273-6769

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This paper is submitted in response to the Office Action mailed February 10, 2005.

REMARKS

Claims 97-141 are currently pending in this application. Claims 97-141 have been rejected. No claims have been canceled. Therefore, Claims 97-141 are still pending in the Application. Reconsideration of the application based on the arguments submitted below is respectfully requested.

Claim Rejections - 35 U.S.C. §103(a)

Claims 97-141 have been rejected under 35 U.S.C. §103(a) based on the Kelly 5,913,204 and Cook 6,338,044 patents. Applicant respectfully traverses this rejection because the portions of Kelly and Cook cited and relied upon by the examiner do not teach or suggest one or more of the claimed features in each of these claims. For example, rejected Claim 97 is directed to a computer system *that*

includes a user database containing demographic profile information for a plurality of registered users. The Examiner cites col. 2, lines 40-67 of Kelly as

teaching this limitation (see p. 2 of February Office Action). The cited portion of Kelly does not contain any reference to a user database, let alone a user database containing demographic profile information. The cited portion of Kelly relied on by the Examiner is included below.

The method and apparatus for surveying and reporting listener opinion of a list of songs are described with reference to FIGS. 1-4 which are provided for illustrative purposes only and are not meant to limit the scope of the present invention. FIG. 5 represents a flow chart of the inventive method which is described below.

A preferred purpose of the method and apparatus of the present invention is described below with reference to determining the listener appeal, familiarity, and fatigue for a list of songs comprising the music library of a radio station. However, the method and apparatus of the

The Applicant has reviewed the above-referenced language and can find no reference to a user database as suggested by the Examiner.

There are also additional claim limitations included in Claim 97 that, contrary to the Examiner's statements otherwise, are not taught by Kelly. The computer system claimed in Claim 97 also requires an opt-in database containing user email addresses for registered users who have chosen to receive emails containing music and entertainment information, and a radio station database containing information regarding a plurality of radio stations. The Examiner cites col. 3, ll. 1-54 of Kelly as teaching the required opt-in and radio station databases. The cited portion of Kelly, however, does not include any reference to an opt-in database or a radio station database as required by Claim 97. The cited portion of Kelly is basically an entire column and has not been included here because of its length. A review of the language in that portion, however, clearly indicates that it

present invention may be used generally to determine listener appeal, familiarity, and fatigue for a list of songs for any purpose. The resultant information is used to improve the marketability of the music and/or the radio station conducting the research. The survey method may be conducted locally in a single market, regionally, or on a national scale depending on the needs of the radio station or network of stations (hereinafter collectively referred to as "the radio station").

Initially, a group of music listeners is selected from which individual listener opinions are recorded. Individual listeners may be selected based on their compliance with specific listener criteria including geographic residence, music preference, demographic age group, household income and/or racial or ethnic background.

The geographic area or geographic market from which the individual listeners are selected is usually determined by the actual geographic market for service where potential listen-;

does not provide support for the Examiner's position that Kelly teaches the use of opt-in and radio station databases.

Claims 98-141 include similar claim limitations that are not taught by the references cited and relied upon by the Examiner.

Request to Withdraw the Finality of the February 10, 2005 Office Action

As indicated above, the cited and relied upon portions of Kelly and Cook do not teach or suggest at least one of the claimed features in each of the rejected claims. Applicant requests that the patent examiner withdraw the finality of the February 10, 2005 Office Action so that the applicant can submit a response clearly explaining to the examiner how Claims 97-141 are patentable over the Kelly and Cook references.

Telephone Interview

On August 10, 2005, the undersigned attorney participated in a telephone interview with Patent Examiner Vanel Frenel and Supervising Patent Examiner Joseph Thomas relating to the February 10, 2005 Office Action. During that interview, Claims 97-141 were discussed, as well as the teachings of the Kelly and Cook references. The undersigned also expressed his concern that the cited portions of the Kelly and Cook references did not appear to teach or suggest many of the claim limitations required by rejected Claims 97-141. Examiner Thomas elaborated on the rejections of Claims 97-141 and pointed out in the cited references where various claim limitations in the rejected claims were taught or suggested. The undersigned acknowledged that some of the claim limitations in the rejected claims

were taught by the cited references. The fact that some claim limitations in the rejected claims were not taught by the cited references, such as the requirement for an opt-in database with email addresses in Claim 97, was acknowledged by Examiner Thomas during the telephone interview. As a result, Examiners Frenel and Thomas agreed to withdraw the finality of the February 10, 2005 Office Action. At the conclusion of the telephone interview the undersigned attorney, Examiner Frenel, and Supervising Patent Examiner Thomas agreed to the following:

1. The undersigned would file a formal response to the February 10, 2005 Office Action requesting that Examiner Frenel withdraw the finality of that action because the cited portions of the Kelly and Cook references did not teach or suggest some of the claim limitations required by rejected Claims 97-141.
2. In response, Examiner Frenel would withdraw the finality of the February 10, 2005 Office Action and issue a new non-final office action clearly identifying portions of the Kelly and Cook references (or any other references that might be relevant) supporting any claim rejections included in that action.
3. The undersigned would be allowed to file a response to this new non-final action, amending Claims 97-141 as necessary in order to try to place those claims in condition for allowance.

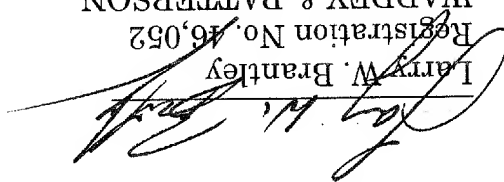
Pursuant to 37 C.F.R. § 1.136(a), Applicant petitions the Commissioner to

extend the time for responding to the February 10, 2005, Office Action for 3 months

from May 10, 2005, to August 10, 2005. The Commissioner is authorized to charge

the required petition fee of \$510 to Deposit Account 23-0035. The Commissioner is also authorized to charge any deficiency or credit any overpayment associated with the filing of this Response to Deposit Account 23-0035.

Respectfully submitted,


Larry W. Brantley
Registration No. 46,052
WADDEY & PATTERSON
A Professional Corporation
Customer No. 23456

ATTORNEY FOR APPLICANT

Larry W. Brantley
Waddey & Patterson
414 Union Street, Suite 2020
Bank of America Plaza
Nashville, TN 37219
(615) 242-2400

CERTIFICATE OF TRANSMISSION

I hereby certify that this Response To Office Action is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (571) 273-6769 on August 10, 2005.

Larry W. Brantley

Signature
Registration Number 46,052
Date
August 10, 2005